

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

IGORS NAGAICEVS,

Defendant.

No. C 12-413 CW

ORDER ADDRESSING
SERVICE AND
DIRECTING
PLAINTIFF TO MOVE
FOR ENTRY OF
DEFAULT

On October 16, 2012, the Court granted Plaintiff Securities and Exchange Commission's motion for permission to serve Defendant Igors Nagaicevs by email. In that order, the Court noted that, while establishing some of the trading accounts at issue in this case, Defendant used a physical address in Seychelles for a corporate entity with which he was associated, and directed Plaintiff to attempt to serve him through the Seychelles address as well. The Court also directed Plaintiff send the service documents to Defendant at his address in Latvia using International mail with a return receipt requested. Finally, because the most recent evidence that the email account lemantek@gmail.com was active and in use was more than two years old, the Court directed Plaintiff to seek further proof from Google, Inc. that this account is still active today. The Court found that, in combination with the other measures ordered, email service upon Defendant was appropriate.

On November 26, 2012, Plaintiff served the complaint, summons and other relevant documents upon Defendant by email. Docket No.

15. In addition, on November 19, 2012, Plaintiff mailed copies of these documents to the addresses in Latvia and Seychelles by International Express Mail. Docket Nos. 16-1, 18. The documents were delivered to the Seychelles address on December 6, 2012. Docket No. 19. Plaintiff represents that the United States Postal Service's website shows that it is returning to Plaintiff the package sent to the address in Latvia following multiple unsuccessful attempts to deliver it. Docket Nos. 16, 17.

On January 9, 2013, Plaintiff filed a supplemental case management statement. Docket No. 17. Plaintiff represented that it had served a subpoena on Google on December 19, 2012 to request information regarding the current status of the lemantek@gmail.com account and that Google recently stated that it would provide notice of the subpoena to the account holder of lemantek@gmail.com and allow him or her twenty days, until January 28, 2013, to file an objection to the subpoena prior to producing the requested information. Plaintiff requests that the Court find that Defendant has failed to respond within the time allowed after he was served by email and authorize the Clerk to enter Defendant's default. Plaintiff states that, alternatively, it could apply to the Clerk for entry of default.

In the October 16, 2012 Order, the Court found that service by email was appropriate in combination with the other measures set forth in that order, which have not yet been completed. Accordingly, the Court declines to direct the Clerk to enter Defendant's default at this time.

By Thursday, February 14, 2013, Plaintiff shall provide Google's response to its subpoena regarding the status of the

1 lemanetek@gmail.com account or, if Google has not disclosed this
2 information, an update regarding the status of its request to
3 Google. Plaintiff shall also apply to the Clerk for entry of
4 default by that date.

5 IT IS SO ORDERED.

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7 Dated: 1/28/2013


CLAUDIA WILKEN
United States District Judge